

GREGORY HALL, et al.

\* IN THE

*Petitioners*

\* COURT OF APPEALS

v.

\* OF

PRINCE GEORGE’S COUNTY  
DEMOCRATIC CENTRAL  
COMMITTEE, *et al.*

\* MARYLAND

\* September Term, 2012

*Respondents*

\* Petition Docket No. 542

\* \* \* \* \*

**DELEGATE TIFFANY T. ALSTON’S**  
**RESPONSE IN OPPOSITION TO**  
**MOTION TO LIFT STAY**

Delegate Tiffany T. Alston, by her attorney, Irwin R. Kramer, respectfully submits this Response in Opposition to Governor O’Malley’s Motion to Lift Stay, and states:

1. Contrary to the Attorney General’s motion, there is no vacancy in the House of Delegates for the Governor to fill.

2. As set forth in greater detail in Delegate Alston’s Petition for Writ of Certiorari, the people of the 24th Legislative District filled her seat when they elected Tiffany T. Alston to represent them in the House of Delegates.

3. Despite the Attorney General’s extraordinary efforts to countermand the will of the electorate, there is no constitutional basis for removing Delegate Alston from office. Not only has the Speaker dispensed with the requirements of MD. CONST. ART. III, § 19 for expelling a member of the House, he has actually taken no official action whatsoever to unseat this delegate.

4. Although the lower court adopted the Attorney General’s distorted reading of a constitutional provision to unseat Delegate Alston by “operation of law,” Maryland law will not operate to remove an elected official whose conviction did not become final by “judicial review or otherwise.” MD. CONST. ART. XV, § 2. Because the Circuit Court for Anne Arundel County struck any conviction and entered a probation before judgment, the “final disposition” of the underlying indictment “is not a conviction for the purpose of any disqualification or disability imposed by law because of conviction of a crime.” MD. CRIM. PROC. CODE ANN. § 6-220.

5. By declaring otherwise, the lower court not only disregarded the final disposition imposed by a judge of another county, it ignored Maryland statutory and constitutional law. While the lower court touts this expulsion as a positive step in restoring the integrity of our elected officials, it should not be permitted to subvert the legal system to do so.

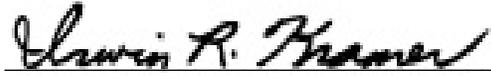
6. Regardless of whether the judge below would vote to reelect Delegate Alston, this Court must vote in accordance with the legal requirements and limitations of the Maryland Constitution and the statutes enacted under it. Because a straight application of these provisions precludes the unilateral removal of this legislator, there is no basis for naming a “successor” or lifting this Court’s stay.<sup>1</sup>

WHEREFORE, Delegate Tiffany T. Alston respectfully requests that this Court maintain

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<sup>1</sup> Delegate Alston incorporates by this reference the grounds and authorities set forth in her Petition for Writ of Certiorari, filed in the companion case of *Alston v. Busch*, which was litigated in the same circuit court action as that of Petitioner Gregory Hall.

its stay of the lower court order until such time as it has fully addressed and resolved the issues raised in her Petition.



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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on December 11, 2012, I transmitted a copy of the foregoing Response in Opposition to Motion to Lift Stay via e-mail attachment to the following attorneys:

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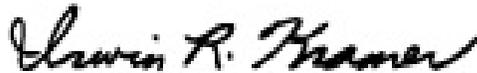
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